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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,228	12/28/2000	Jonathan M. Zweig	3239P063	9333

8791 7590 03/21/2007  
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LOS ANGELES, CA 90025-1030

EXAMINER
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NGUYEN, TU X

ART UNIT	PAPER NUMBER
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2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/753,228

Applicant(s)

ZWEIG, JONATHAN M.

Examiner

Tu X Nguyen

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 6,7,10-12,17-19 and 30-38 is/are pending in the application.
- 4a) Of the above claim(s) 1-5,9 and 20-29 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6,7,10-12 and 17-19 is/are allowed.
- 6) ☒ Claim(s) 30 and 32-36 is/are rejected.
- 7) ☒ Claim(s) 31,37 and 38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☒ Certified copies of the priority documents have been received in Application No. 60/226,342.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's arguments with respect to claims 30 and 34 have been considered but are moot in view of the new ground(s) of rejection.

Regarding claim 30, in response Applicants' argument Porter teaching of an open-loop method which is not directed to the claims limitations. The Examiner agrees that Porter is an open-loop method. However, the Applicant claims limitations do not suggest a close-loop method; the Examiner interprets the claim meaning such a first electronic device determined the power level of the received signal and thereby a suggested power level for transmission signal.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 30, 32-33 are rejected under 35 U.S.C. 102(e) as being anticipated by Porter et al. (US Patent 6,745,013).

Regarding claim 30, Porter et al. disclose a method comprising: receiving a signal from a first wireless electronic device; determining a power level of the signal (see col.2 lines 34-

45); comparing the power level to determined power levels stored within entries of a conversion table, the conversion table including a plurality of entries associated with determined power levels and a plurality of entries associated with suggested power levels, each suggested power level corresponding to one of the determined power levels; and setting the power level of the signal to a first suggested power level of the suggested power levels corresponding to a first determined power level of the determined power levels if the power level matches the first determined power level (see col.3 lines 18-24).

Regarding claims 32-33, Porter et al. disclose the setting of the power level includes increasing the power level of the signal if the first suggested power level is greater than the first determined power level (see col.2 lines 10-11).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bishop et al. (US Patent 5,570,0343) in view of Labeledz (US Patent 5,852,778).

Regarding claim 34, Bishop et al. disclose a method comprising: detecting from a neighboring access point by a device (see col.4 lines 51-55); determining a power level of the beacon (see col.4 lines 57-58).

Bishop et al. fail to disclose decreasing a power level for transmission of signals from the device upon detecting that the power level of the beacon is greater than a predetermined power level threshold.

In the related art, Labedz discloses decreasing a power level for transmission of signals from the device upon detecting that the power level of the beacon is greater than a predetermined power level threshold (see col.4 lines 24-27, "pilot" corresponds to "beacon, "unused transmitting power" is lower power than other opposite transmitters). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Bishop et al. with the above teaching Labedz in order to provide to decrease power of neighbor cells to avoid interference when the interference is above a threshold.

Regarding claim 35, the modified Bishop et al. disclose device being an access point (see Bishop, col.4 lines 51-55).

Regarding claim 36, the modified Bishop et al. disclose maintaining maximum power levels of received beacons from neighboring access points including the neighboring access point (see Bishop, col.5 lines 25-29, "higher power" corresponds to "maximum power").

#### ***Allowable Subject Matter***

Claims 6-7, 10-12 and 17-19 are allowed.

Claims 31 and 37-38, objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Regarding independent claim 6, the prior arts fail to teach “reducing a level of effective isotropic radiated power to a second level of effective isotropic radiated power in accordance with a logarithmic function” and “increasing the level of effective isotropic radiated power to a third level of effective isotropic radiated power in ,accordance with a non-logarithmic function”, as cited in the claim.

Regarding independent claim 6, the prior arts fail to teach “increasing a level of effeciive isotropic radiated power to a third level of effective isotropic radiated power if no response to the signal is received by the first wireless electronic device within the predetermined period of lime, wherein, a rate of change from the first level of effective isotropic radiated power to the second level of effective isotropic radiated power is greater than a rate of change from the second level of effective isotropic radiated power to the third level of effective isotropic radiated power”, as cited in the claim.

Regarding dependent claim 31, the prior arts fail to teach “maintaining the power level of the signal if the power level fails to match any power level of the first group of determined power levels”.

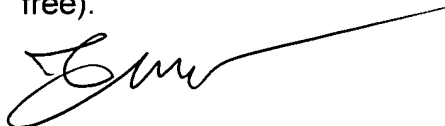
Regarding dependent claim 37, the prior arts fail to teach “periodically transmitting beacons front the access point at a designated power level greater than the power level to enable other neighboring access points to assess channel conditions”.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is 571-272-7883.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



March 9, 2007